THE TAYLOR WILL CASE.

Grandmother Taylor Versus Granddaughter Howland.

Troubles of Surrogate Hutchings—Anxiety for the Litigants and Fun for the Lawyers—The Testimony of Mrs. Howland, Senior—Ranting Counsel.

The somewhat extraordinary and really sensational drama in real life which the present action in the Surrogate's Court over Mr. Taylor's will has given us a glimpse of continues to be the theme of comment in fashionable circles in New York, and undoubtedly it will engage the attention of the *haut ton*, as well as of the lawyers, until by due process of law, to be decided by Mr. Surrogate Hutchings, one or other of the parties interested is effectually defeated. The court room was quite crowded yesterday morning when the Surrogate took his seat on the bench, at eleven o'clock, and the utmost anxiety was manifested to hear the evidence in support of the speech of the counsel for the claimants, Mr. Henry L. Clinton, a synopsis of which has already appeared in these columns. There was quite an array of legal talent present, while Mrs. Taylor and her friends and Mrs. Howland and her sympathizers occupied seats at different and opposite stations.

TESTIMONY FOR THE CONTESTANTS.

Mrs. Rebecca Howland, the granddaughter, was the first and only witness placed on the stand. She testified as follows:—I first saw Mrs. Taylor in November, 1869, when she called to invite us to Thanksgiving dinner; at first I objected, because I was in mourning for my husband; she said it would be a private dinner, and I consented; she saw my son Henry and Kate, and she was very cordial and kind; she went to see Henry in his room, where he was sick in bed; Mr. Richmond and Mr. and Mrs. Taylor and Mrs. Taylor's housekeeper were present at the dinner; Mr. Taylor tried to make the party as pleasant as he could; his manner to both Henry and Kate was cordial; he also spoke of my husband in very high terms; in speaking of Kate he said he was

VERY FOND OF HER FUN;

after dinner he showed me some jewelry he had presented to Kate; he said he had bought two sets, one for Mrs. Taylor and one for Georgiana, Kate's mother; Kate called Mr. and Mrs. Taylor father and mother, and they spoke of her as their granddaughter and regarded her as their own daughter; Mr. and Mrs. Taylor afterwards called at my house and stopped to dinner; Mr. Taylor's manner was very cordial; he spoke approvingly of her appearance, drew a seat near her and embraced her; Mr. Taylor spoke to Henry about his business, and said he would like to see his business papers; he said he did not care if Henry did not earn a dollar, but he wanted him to engage in business, so that he might learn how to take care of his money; my son Joseph was then going to Europe, and had proposed to Henry and Kate to go; this was spoken of to Mr. Taylor, who said, "Kate, if you want to go, I will give you $2,000 to pay expenses;" he then spoke of what he had accumulated of this world's goods by his own unaided efforts; I next saw Mrs. Taylor at her house a few days afterwards; I dined there; after dinner Mr. Taylor asked me into the library, and spoke to me about the paper relating to my husband's estate, which had been drawn; I asked him his advice about signing it; he said take plenty of time; he told me he and Mrs. Taylor believed in Spiritualism, and had frequent communications from the other world; in regard to his deceased daughter, he called at my house during Kate's illness and expressed surprise and anger that it was

KEPT SECRET FROM HIM;

I mentioned to him that she was ill of cold; he said she was the only child he had and he would take care of her; the interview was cordial and affectionate; the idea of going to Europe again came under notice; on this occasion my son said he wanted about $2,000 for the trip, and Mr. Taylor replied that if he drew a note for that amount he would advance it to him; (this note (produced) is in my son's handwriting, and the signature is Mr. Taylor's; we left for Europe about the 11th or 12th of May; up to the time of our departure I never saw anything but great tenderness and affection between Kate and Mr. Taylor; she seemed to be the pet and darling of his heart; he saw us leave in the steamer, and, kissing Kate, expressed a hope that she would return strong and healthy; she always spoke of him

IN THE MOST AFFECTIONATE MANNER;

the voyage was passed over in apparent friendship, and on our arrival in Havre we proceeded to Edinburg; on one occasion, while in Edinburg, I spoke of Kate's affectionate disposition, and Mr. Taylor replied that I must be mistaken, for it was quite the reverse; in Paris Kate became very ill, and one evening I was obliged to remain up with her the entire night, her mother did not come to visit her, and she felt very much hurt at it; here there was difficulty in regard to some article of jewelry, and Mrs. Taylor's manner at the time was very harsh and angry; she said, "Now, Harry has Kate, and he can support her, and all she had to care for was herself and Mr. Taylor;" she then stated her intention of writing to Mr. Taylor on the circumstances; this event did not induce us to discontinue the cordial relations which existed between us; we had a conversation one day about a will, and Mr. Taylor said George Duryee was able to forge any handwriting, particularly Mr. Taylor's.

AN OBJECTION.

Mr. Andrews objected to that class of testimony. It was all a quarrel between two women, and had nothing whatever to do with the will.

Objection overruled.

His Honor overruled the objection and the examination of the witness was proceeded with.

The story of the family squabbles in France and Germany was retold, and the letters from Mr. Taylor to his granddaughter, the substance of which were given in Mr. Clinton's opening speech, were read in full.

Witness further testified that on the voyage from France Mrs. Taylor asked her to back her up should Mr. Taylor remark her

EXTRAVAGANCE IN THE PURCHASE OF DIAMONDS,

and that she said she would the first intimation any of the party had was when they arrived at the dock in this city. Witness then described the scene at the bedside of Mr. Taylor, as already given; she attended the sick man at Mrs. Taylor's solicitation; the latter did not remain long in the room; when Kate arrived Mr. Taylor was very tender and affectionate toward her; his reception of Harry Howland was quite cordial; Mr. Taylor died on the evening of the 22d of August; Kate, Harry and witness remained some days in the house; Mrs. Taylor said that

IF THERE WAS A WILL,

Mr. Jones, of the *Times*, would be likely to have it; she also said that it was the interest of Harry and Kate to keep on the right side of Mr. George Duryea, as he knew all about Mr. Taylor's affairs, and that he could do them good or injury, as he felt disposed; remember being introduced to Mr. Wetherill, who remarked that he had lost a good friend in Mr. Taylor.

THE SUBJECT OF THE WILL

was first spoken of in Paris; Mrs. Taylor told witness that he made a will before Kate was married; in the meeting, after the funeral, Mr. Wetherill stated that he knew nothing of a will, but said that George Duryea ought to know; about this time Mrs. Taylor stated that she would provide liberally for George Duryea.

Cross-examined—At the time of the marriage between Mr. Howland and Kate Mr. Taylor had not consented to it; he was considering it; first learned of the fact of Mr. Taylor's displeasure through the papers; Kate said, after her reconciliation with him, that she was surprised at his affectionate bearing towards her; cannot remember ever saying that Mr. Taylor said that "he would forgive, but not forget;" the intimacy between the families after the reconciliation at the Thanksgiving dinner was quite close; witness borrowed $3,000 on interest from Mr. Taylor; the note was paid when due; am

NOT A SPIRITUALIST,

and never was a medium; had a conversation with Mr. Taylor about it; Miss Fox was at my house one night and slept with me; Mr. Taylor said once that he saw writing on the neck of a friend, which he attributed to spiritualism; never asked the medium how long Mr. and Mrs. Taylor was going to live; the first difficulty between the families was abroad; it was the coral bracelet incident; Harry was very angry, and smashed the bracelet cover and insisted on its being sent back to Mrs. Taylor; I brought it to her and she said she would write to Mr. Taylor about it; advised her not to do so, it being a trifling matter; there was some little bickering after this but nothing of much consequence; in Germany the separation took place; the agreement was that each party would go different ways; had no communication with Mrs. Taylor after this until we met in Paris; Mrs. Taylor received a letter from Mr. Taylor a few days before leaving for home; she would not let Kate see it; after arriving in New York Mrs. Taylor and self went together to Mr. Taylor's home, having heard that he was

SICK WITH TYPHOID FEVER;

there were two or three gentlemen in the room; Kate and her husband came in together; Kate remained about ten minutes; when Mr. Wetherill visited the house after the funeral he was accompanied by his sister; she commenced the conversation about the will; am quite sure that Mr. Wetherill said that he had never heard anything about a will; never heard that my son told Mrs. Taylor she must leave the house; called on Mrs. Taylor some days after the funeral; she would not see me; supposed by her action after the funeral that she wanted to get me out of the house; suppose that to be the reason why she would not see me; never visited her afterwards, neither did Kate; I

HEARD THAT THERE WAS A WILL FOUND,

and that Mr. Howland was contesting it.

Redirect—After the funeral Mrs. Taylor intimated to Kate that she would have to leave the house; this was on Saturday; on Monday we took our departure; in the interview between Kate and her mother after the funeral the latter was despondent, and said she did not know if she had a home to cover her; Kate replied that she could go and live with Harry and her; don't think that Mrs. Taylor said anything in reply; my motive in allowing the spiritualistic exhibition in my house was to show my children the folly of it.

THE ADJOURNMENT.

The examination of this witness having been concluded at this point, the further hearing of the case was adjourned to Monday, at eleven o'clock. The day was spent by the counsel engaged in going over and over the points of testimony, and the Surrogate was compelled to listen to a great deal of twaddle and any number of bad jokes, and several times during the day was forced to interfere in shortening the legal squabble. It is expected that Mrs. Howland, the younger (Kate), will be examined on Monday, when some new and interesting light will be thrown on this singular mystery of Mr. Joseph B. Taylor's intentions in regard to the disposal of his large fortune.

AN OVER RASH ROBBER.

He Commits Some Thefts and Seeks Refuge in a Bridgeport Police Station—Chief of Police Marsh Proves too Much for Him.

BRIDGEPORT, Dec. 15, 1870.

Between six and seven o'clock last evening a young man of respectable appearance walked boldly into the police station of this city and with the utmost assurance stated to the officer in charge that he was a sailor by calling, but was at present out of employment, and, having been sick for a considerable time, was entirely destitute of money, and would like to be provided with a lodging for the night. At the sound of his voice W. E. Marsh, the Chief of Police, who was sitting at his desk in his office, which adjoins and opens into the room where the stranger was standing, turned his head, and, after looking fixedly at him for a moment, requested the policeman to bring him into the inner room.

The young man glibly repeated his story to the Chief, who listened to him thoughtfully, and at its close replied, "Certainly, sir; we shall be happy to accommodate you with lodgings; in fact, you are

JUST THE MAN WE WANT.

Perhaps you will favor us by removing that comforter which you wear wrapped around your neck." With the assistance of the willing policeman this was speedily done, and the neck and lower part of the face of the astonished young man were exposed to view. "Excellent!" remarked the Chief; "but I see that you have made some change in your personal appearance within the past few hours and have had your beard shaved off. Perhaps you can now inform us what you have done with

THAT GOLD WATCH

which you stole in New Haven to-day." With an air of the utmost indignation and surprise the stranger commenced to deny that he had ever been in New Haven, and to protest that the charge of his having stolen a gold watch was a ridiculous one, as he had never had such a valuable article in his possession; but his volubility was cut short by an order to search him, which was promptly carried out by the officer who had taken charge of him. The pockets of his garments were successively emptied and his boots removed without finding anything unusual in them. But a quick and almost imperceptible motion of the prisoner's hand just as the officer of the law laid hold of him had been noticed by the practised eye of the Chief, and upon search being made in its direction

A LARGE POCKETBOOK

was picked up from the floor behind a chair, where it had been dropped by the culprit to escape detection. Upon opening it the missing property, consisting of a lady's gold watch, was found. The watch was a valuable one, and must have been worth seventy-five dollars at least.

From information subsequently received it appears that the guilty man, who gives his name as Arthur Melville, called at a handsome house in New Haven yesterday, and, representing himself to be destitute and extremely hungry, begged for something to eat. Having been incautiously admitted into the house, he took advantage of the momentary absence of the servant from the room to abuse the kindness of which he was the recipient by committing this base theft. The hasty manner in which he took his departure was noticed and excited suspicion, and in a few moments it was found that the watch was missing. The New Haven police department was immediately notified and a description of the person of the thief furnished. Search was made for him, but he had disappeared and left no clue behind. Thinking it probable that he had left town, though in what direction was unknown, the description of his appearance was telegraphed to the police departments in all the neighboring towns. He was described as being about five feet seven inches in height, wearing full beard and mustache and dressed in a gray coat and black felt hat with stiff brim. The despatch was received by Chief Marsh, of Bridgeport, at about half-past six P. M., and in about an hour from that time the man was in arrest. He was easily recognized, though his appearance had been considerably changed by a visit he had paid to a barber shop on State street, where his whiskers had been cut off and his mustache trimmed.

In the pocketbook was also found a letter from

A STUDENT IN YALE COLLEGE

to his father, who is a member of a prominent mercantile house on Broad street, New York, introducing the stranger, and saying that the writer met with him in New Haven, and had been deeply interested in hearing him repeat his adventures upon the briny deep, and that he believed him to be a worthy man, though at present in needy circumstances, and that any relief that his father might be able to afford him would be well bestowed.

Upon the person of the prisoner was also found a list of the various stopping places frequented by thieves and tramps upon their travels in nearly all the towns between New Haven and New York, showing that he was no novice at this mode of life, but probably

AN OLD OFFENDER.

Notice of his arrest was telegraphed to the New Haven police, and Captain Catlin, accompanied by the detective who had the matter in charge, arrived here upon the nine o'clock train and took charge of the prisoner, and at half-past ten o'clock the same evening returned with him to that city, where he was locked up for examination.

VOICE OF THE PEOPLE.

Butler and Farragut—What Has Become of the New Orleans Prize Claims?

TO THE EDITOR OF THE HERALD:—

An organization has been formed in the city of New York for the purpose of erecting a monument to the late Admiral Farragut. While every true, patriotic citizen must favor this movement in honor of the illustrious hero, I would ask if something practical cannot be done by the gentlemen who form this society towards obtaining for the widow of the Admiral and others the prize and bounty money for rebel vessels destroyed and captured on the Mississippi river at the time New Orleans was taken, April 24 and 25, 1862. The Admiral placed the claim in the hands of General Butler, and I regret to say that he has been very dilatory in bringing it to a settlement. Perhaps he will say that he laid it before Judge Wylie, and that he decided adversely to it. This was done on account of the informality of the claim as it was presented. I would like to know what motive this distinguished hero of Dutch Gap notoriety had in laying the claim before the court in an informal manner, and I call upon the gentlemen in the above enterprise and on the press of New York to vindicate our cause and insist that justice be done the noble dead and those that had the honor to serve under him. Very respectfully, &c.,

THOMAS H. LAWRENCE,
late an officer of the United States steamer Varuna.

An American Catholic to an Italian Catholic.

NEW YORK, Dec. 16, 1870.

TO THE EDITOR OF THE HERALD:—

In your paper of yesterday's date I noticed a letter signed by an "Italian Catholic." From the tone of his communication it appears that he thinks the Pope benefited by the usurpation of his territory and the loss of the temporal power. In the Papal syllabus which was adopted by the last Council it is distinctly affirmed that the temporal power is necessary to the Pope, and if he be a true Catholic he must believe this. Even in a human point of view is it very modest for the writer of that letter to set himself against the opinion of the Council, composed of men who have devoted their whole lives to religion?

The disrespectful and insulting way in which he speaks of our venerable Bishop and other eminent prelates as, "Manning, Spalding, McCloskey and Company," also deserves censure.

The writer of that letter, although signing himself an "Italian Catholic," is not a Catholic at heart. Let him remember the words of our blessed Redeemer—"He that is not with me is against me."

AN AMERICAN CATHOLIC.

The Street Letter Boxes.

TO THE EDITOR OF THE HERALD:—

In a recent impression of your valuable paper you took occasion to caution the public against leaving newspapers on the top of the mail boxes so often met with on street corners in various parts of the city, as such papers seldom or never reached their destination. I understand, too, that you have frequently referred to this matter in your columns, and on revolving it in my own mind have often wondered why the said boxes should be constructed for letters only, and not for newspapers and small book packets as well. Of course if the aperture in these boxes was large enough newspapers could be posted in them in addition to letters, but as this cannot be done while they remain as they presently are, persons who have newspapers to post, either with or without letters, must in many cases be badly put about, more especially as the nearest Post Office will be found to be some distance from the street letter box. In England, where the postal arrangements generally are of the most complete kind, one finds that this question touching the pillar boxes, as they are called there, has not been overlooked, and if the authorities having charge of this department of the government's operations here wish to confer a boon on the public at large I believe they could not do it better than by giving this matter the attention it certainly demands. Yours, VIATOR.

THE COURTS.

Business in the Court of Oyer and Terminer—Writ of Error in the Case of Lawrence Sullivan—Larceny of Pacific Railroad Bonds.

COURT OF OYER AND TERMINER.

Disposing of Cases on the Calendar.

Before Judge Cardozo.

At half-past ten o'clock yesterday morning the trials of criminal cases were continued in this court.

SENTENCED TO TEN YEARS' IMPRISONMENT FOR HIGHWAY ROBBERY.

On Thursday William Barr, a lad who had seen twenty summers, was tried for highway robbery, the complainant, Patrick Jourdan, a bartender, testifying that at about five o'clock on Thanksgiving morning the accused knocked him down in the street and took from his pocket $2 25.

The prisoner testified in his own behalf that on the morning in question he had been drinking with the complainant, and that a row took place between them, resulting in a fight. He, however, persistently denied having stolen anything.

The jury retired to consider their verdict at noon, and not being able to agree were lock up all night.

On the opening of the court yesterday morning the jury, who looked sleepy and haggard, returned a verdict of guilty, with a recommendation to mercy.

The Court then discharged the jury, regretting that, owing to some irregularity in the engine room, the court had been left unheated throughout the night.

In sentencing the prisoner the Court said, in consequence of the recommendation of the jury, he would reduce the punishment one-half and sentence him to ten years in the State Prison with hard labor.

STEALING A TRUNK.

Frederick See, a carpenter, and Charles Proh, a painter, charged with stealing a trunk and contents, pleaded guilty; but said in extenuation that they were drunk at the time of the commission of the crime.

The Court sentenced them to three years' imprisonment each.

A LINGUIST SENT TO SING SING FOR TWO YEARS.

Charles Pelaez, who said he could speak French, Italian or Spanish, but not English, and who presented a respectable appearance, was put to the bar on an indictment charging him with an attempt to commit burglary.

The prisoner said, through an interpreter, that he was a compositor, had worked in the city eighteen months and had never been arrested before.

The Court sentenced him to imprisonment in Sing Sing, with hard labor, for two years.

Jane Quigley, a rough, coarse-looking woman of twenty-five summers, attired in a shabby shawl and dirty cotton dress, was then called to the bar, charged with robbing a man of forty dollars.

Essential witnesses for the defence not being present the case was put over till Monday.

The court then adjourned.

SUPREME COURT—CHAMBERS.

Writ of Error in the Case of Sullivan.

Before Judge Ingraham.

Application was made by Mr. Hummel for writ of error in the case of Lawrence Sullivan, found guilty of the murder of John O'Brien, and sentenced to be hung on the 20th of January next. The Judge granted the writ, the same being made returnable before the Supreme Court, General Term, on the third Thursday of next January.

Decisions.

By Judge Ingraham.

Thomas Murphy et al. vs. Philip McCaffrey et al.—The motion to strike out name, &c., is granted, with leave to the plaintiff to answer the complaint stating that he refuses to allow his name as executor to be used, and making him defendant as executor as well as in his own right. The plaintiffs' costs of this motion to abide event.

By Judge Brady.

In the Matter of the Claim of Martin L. Finch vs. The Estate of Reuben Lowell, Deceased.—Report of referee confirmed, costs and allowance refused.

SUPERIOR COURT—TRIAL TERM—PART 2.

Settlement of the Building Cross Suits.

Before Judge Spencer.

Henry M. Field vs. Stewart and Others.—In this case, involving two cross actions, the first ex contracto and the second ex delicto, growing out of the building of a residence by the defendant for the plaintiff, the facts of which have been fully reported, the jury gave a verdict in the first suit for $2,500 for the plaintiff. In the second case the same findings were made by consent, with an additional one, and this was $2,553 balance unpaid on last instalment of contract and extra work, including interest to date.

Assignments of the Supreme Court and Judges for the Year 1871.

General Terms.—First Tuesday of January, February, April, June, September and November.

Special Terms.—For Enumerated Motions—February, Ingraham; March, Brady; May, Sutherland; October, Cardozo; December, Barnard.

Chambers.—January, Sutherland; February, Barnard; March, Cardozo; April, Brady; May, Ingraham; June, Barnard; July, Cardozo; August, Sutherland; September, Barnard; October, Ingraham; November, Brady; December, Cardozo.

The Judge at Chambers will hold the same to and including the Saturday preceding the first Monday of the succeeding month.

Circuit Courts and Oyer and Terminer.—January, Parts 1 and 2, Brady; February, Part 1, and Oyer and Terminer, Sutherland; Part 2, Brady; March, Parts 1 and 2, Sutherland; April, Parts 1 and 2, Sutherland; May, Part 1, and Oyer and Terminer, Cardozo; Part 2, Brady; June, Parts 1 and 2, Brady; October, Part 1, and Oyer and Terminer, Barnard; Part 2, Brady; November, Parts 1 and 2, Sutherland; December, Part 1 and Oyer and Terminer, Ingraham; Part 2, Brady.

Where two Circuits are to be held at the same time the odd numbers will be placed on the calendar of Part 1 and the even numbers on the calendar of Part 2.

SUPERIOR COURT—SPECIAL TERM.

Decisions.

Before Judge Monell.

James G. Eagell vs. Charles S. Westcott.—Order granted.

John Sanderson vs. Asher Niel et al.—Order granted.

Anna R. Menger vs. Charles Jenker et al.—Reference ordered.

Philip S. Justice vs. Wm. B. Lang.—Order granted.

James Pechin vs. Thomas Columba.—Motion denied.

Hamilton Ruddick vs. The White Patent Lever Truss Company.—Reference ordered.

Bela Ames vs. Dubois Smith.—Order granted.

Warptum & Mold vs. Andrew S. Thorp et al.—Order granted.

Ellen Lewis vs. George Neuschofer.—Order granted.

Before Judge Jones.

Theodore E. Allen vs. Samuel A. Sawyer.—Motion denied.

Asa Hall vs. John Emmons et al.—Motion denied.

August A. Ritter vs. Samuel Phillips et al.—Findings and judgment signed.

August Ritter vs. Margaret Kiegler.—The same.

COURT OF GENERAL SESSIONS.

Before Recorder Hackett.

Larceny of Pacific Railway Bonds.

Gilbert W. Thomas, who was charged with grand larceny, pleaded guilty to an attempt to commit that offence, under advice of his counsel, Mr. Howe. The indictment charged that on the 12th of April the accused attempted to defraud Dabney, Morgan & Co., brokers, at 23 Exchange place, out of $62,000 worth of Kansas Pacific Railroad bonds. It seems that on the day in question an order was sent for these bonds by P. Thomas & Son, brokers, at No. 42 Exchange place, and that Jacob H. Ritter, an employé of Dabney, Morgan & Co., handed the bonds to the prisoner, who said he would return in a moment with a check for the amount. He did not, however, return with the check or the bonds, but escaped through a back door of the office. Most of the bonds were recovered, and as there was a legal doubt respecting the ability of the prosecution establishing the crime of grand larceny, the prosecuting officer concluded to accept the plea which the accused, through his counsel, offered. The Recorder imposed the highest penalty the law allowed, which was two years and six months' imprisonment in the State Prison.

ANOTHER MURDER CASE.

The case of Michael Kearney, charged with homicide, was on the calendar, but owing to the absence of important witnesses the trial could not proceed. It was set down for Wednesday next.

BROOKLYN COURTS.

SUPREME COURT—GENERAL TERM.

A Contested Will—$70,000 Involved.

Before Judges Barnard, Gilbert and Tappen.

Thomas Regan vs. James Young and Others.—This case comes up on an appeal from the decision of the Surrogate to set aside the will of Owen Regan, who died on August 31, 1869. The deceased left an estate worth about $70,000. He had a wife (but no children) and a brother and three sisters. The allegation is that for several years prior to his death he was a heavy drinker, and passed the greater part of his time in the saloon of his brother-in-law, Joseph Toury, who is a party to this case. On the 29th of August, 1869, during an illness, he made a will, and on the 31st he died. For some days prior to his death he was delirious, and it is alleged by the contestants that while in this state he was prevailed upon to sign a prepared will and execute a deed in Toury's favor for a house valued at $9,000. There were other provisions inserted in the will, so that some $10,000 additional were bequeathed to Toury. On the part of Toury, it is claimed that the deceased, ten days before his death, told a Mr. Cann, and in the presence of other witnesses, that he intended to provide for his brother-in-law.

Decision reserved.

CITY COURT.

Alleged Breach of Promise.

Before Judge McCue.

Annie S. Morgan vs. David Lyme.—The plaintiff in this case, which has been reported in the HERALD, sues to recover $10,000 damage for alleged breach of promise of marriage. The case was concluded yesterday, when the jury rendered a verdict in favor of plaintiff.

THE NORFOLK STREET HOMICIDE.

Morris Kehr Sentenced for the Manslaughter of Conrad Oestreicher—The Law with Regard to Manslaughter—Recorder Hackett's Pertinent Remarks Thereon—A Change in the Law to be Pressed in the Legislature—The Prisoner Sentenced to Two Years at Sing Sing with Hard Labor.

At the opening of the Court of General Sessions yesterday, Recorder Hackett presiding, Morris Kehr, who pleaded guilty a few days since to manslaughter in the fourth degree, was brought up for sentence. He was indicted for causing the death of Conrad Oestreicher on New Year's night, in an affray among some Germans at a lager beer saloon in Norfolk street—the full particulars of which were given in the HERALD at the time of the trial.

PROFFER OF TESTIMONY OF GOOD BEHAVIOR.

Judge Stuart intimated to the Court that he had witnesses in attendance to prove the previous good character of the prisoner, but upon receiving an intimation from the bench that such proof would not alter the judgment about to be pronounced he would not call them.

RECORDER HACKETT ON THE LAW OF PUNISHMENT FOR MANSLAUGHTER.

Recorder Hackett, in passing sentence, said—I cannot reconcile it to my sense of duty, where a man takes the life of another, that I should, under any circumstances, modify the term of imprisonment, or upon the ground that the man had prior to the homicide borne a good character. A man may commit an atrocious murder, and yet have borne an unexceptionably good character before that. I intend to recommend to the Legislature to alter the law respecting the punishment for homicide. It seems to me strange and inconsistent that in ordinary offences, such as embezzlement, false pretences and such minor offences that the Court has it in its power to visit the offender with imprisonment in the State Prison for the term of five years, but where a party is convicted of the fourth degree of manslaughter the extreme penalty is only two years. This seems to be an anomaly. And in view of the daily shooting and cutting affrays prevailing in this community of late I think it highly important that in cases of manslaughter the law should be changed, making the penalties more severe, and giving discretion to the judge. I think that manslaughter in the third degree should be punished by imprisonment for not less than five nor more than twenty years, and that the punishment for the fourth grade of homicide should not be less than five nor more than ten years.

SENTENCE OF KEHR.

These being my views I sentence Kehr to the full penalty prescribed by law, namely, imprisonment in the State Prison for two years at hard labor.

THE SEVEN-THIRTY BOND CASE.

William Brockway Discharged—Colonel Wood at Fault.

The examination in the case of the United States vs. William Brockway, which has so long engaged the patient attention of Commissioner Osborn and the astute, interested and persistent prosecution of ex-chief detective Colonel Wood, resulted yesterday in the discharge of the defendant Brockway and the consequent vanishing into thin air of the Colonel's anticipated reward of $15,000.

The case for the prosecution having closed on the previous day and counsel for the defendant having moved for the dismissal of the case on the ground that the statute of limitations had taken the case out of the court, the Commissioner yesterday, after a brief review of the points raised for and against the motion,

DISCHARGED THE PRISONER.

Commissioner Osborn held that the point raised by the Assistant District Attorney, that there was no limitation to bar proceedings for forgery, was not well taken. Judge Cadwallader, in the Vondersmith case, in charging the jury, construed the act of 1790, and decided that forgeries and other felonies in subsequent acts where the punishment is not capital came within the statute of limitation of two years, except those crimes specially excepted. The other point raised by the prosecution, that the prisoner within two years fled from justice—that is, fled from New York to avoid punishment or arrest for an offence alleged to have been committed in the Northern district of New York, where one Lowell claimed to be the complainant—the Commissioner decided that the evidence bearing on that point, and the want of evidence that there was a warrant for or information lodged against the prisoner before any magistrate, did not bring the case within the meaning of the law, and he could not jeopardize this man's liberty on such a flimsy and imaginary proposition of law and would not consider the point further on that branch of the case. The Commissioner said that a patient investigation of the authorities and the statutes clearly convinced him that the offence under investigation, having been committed in November, 1867, and no criminal proceeding having been instituted against him until about ten days ago, was undoubtedly barred by the statute of limitation and the prisoner was entitled to his freedom, and he therefore ordered that he be discharged from custody.

Mr. Brockway was congratulated by a number of friends who have interested themselves in the proceedings from the first to the last, and who were prepared to testify to the question of his absence from his home on most legitimate business at the time that it was charged by Wood that such absence was a fleeing from justice.

And thus the great seven-thirty bond counterfeit case ended, so far as the late defendant's supposed connection with it was concerned.

ATTEMPTED MURDER.

A Midnight Shooting Affray in Brooklyn—A Woman in the Case.

Just before one o'clock yesterday morning the sharp report of a pistol, near where officer Fallaird, of the Second precinct, was patrolling his beat, aroused that guardian of the public peace from his dreamy reveries of future prosperity or ill luck to the realization of the fact that there was

SOMETHING RADICALLY WRONG

in that neighborhood. He looked up the street from whence the sound proceeded, and by the aid of the gaslight descried two men struggling upon the steps of No. 99 Fulton street. Hastening to the place, he seized both parties, one of whom held a portion of a revolver in his hand; but the men were so much excited that it was some time before he could learn the real situation of affairs. He could see, or was led at once to the conclusion, that there had been

AN ATTEMPT AT MURDER,

but he was unable to discover any blood.

"Who is shot?" said the officer.

"That man shot at me," said one of the men, pointing to the other, who held the stock of the revolver in his hand.

They were taken to the Second precinct station house, at the corner of Jay and York streets, where it transpired that the man who was shot at was William Rix, who has good reason, as he asserts, to be

JEALOUS OF HIS WIFE,

and the man who shot at him was Austin Nolan, a tailor, whom Rix accuses of being his wife's paramour. They have not been living together for some time past. Rix says he called at the house No. 99 Fulton street yesterday morning for the purpose of seeing his children, and his wife sent Nolan to the door. Seeing who it was Nolan pushed him back, drew his revolver and fired directly at his head. Rix struck his arm and the ball went whizzing by his head, the powder singing his hair. The chambers of the pistol then dropped out upon the stoop. Nolan then, as alleged, struck Rix over the head with the stock of the pistol. Rix says the house which his wife keeps is frequented by young girls of questionable character, and he was anxious to remove his children. Both men were taken before Justice Walsh yesterday, when they engaged counsel, and the examination of the case was set down for to-day.

SALE OF OIL PAINTINGS.

At the second day's sale of paintings, in the salesroom of Messrs. Johnston & Van Tassel, the bidding was yesterday very spirited by parties eager to secure the gems of the collection. Faulkner's fine picture, "The Mountain Torrent," was knocked down to Mr. C. L. Frost for $1,010; Cropsey's "Greenwood Lake," to Mr. Stanton, for 400; Willmarth's "Peaches" brought $185; a marine, by W. T. Richards, $140; Faulkner's "Loch Lomond," $75; a landscape by S. R. Gifford, $167; a landscape by J. M. Hart, $305, and sixty or seventy other pictures were sold at comparatively fair prices. On the whole the sale was one of the most successful of the season, the total amounting to over $5,000.

THE CALLICOT CASE.

Arguments on the Motion for a Writ of Habeas Corpus.

Callicot Refuses to Accept the President's Pardon—Was the Conviction an Illegal One—Mr. Justice Nelson's Opinion Tampered With—Statements of Mr. William O. Bartlett and District Attorney Tracy—Decision Reserved.

United States Circuit Court.

Before Judge Woodruff.

At eleven o'clock yesterday morning, the case of Theophilus C. Callicot, ex-Collector of the Third district, who is now in the Albany Penitentiary, came up on a motion made by Mr. Wm. O. Bartlett, the prisoner's counsel, for a writ of habeas corpus. There was quite a number of prominent lawyers in the court room, and the proceedings were listened to with interest. District Attorney Tracy appeared for the government and opposed the motion.

Mr. Bartlett introduced an affidavit of Mr. Callicot, setting forth that he was illegally restrained of his liberty by the sentence of a court which did not have jurisdiction when the sentence was imposed.

The District Attorney introduced the indictment and the minutes of the trial, when Mr. Bartlett objected to the latter as irrelevant. He also objected to an entry of the sentence made on the back of the indictment at a time subsequent to the day the sentence was imposed.

Judge Woodruff decided that this must be heard like any ordinary motion.

MR. BARTLETT'S ARGUMENT.

Mr. Bartlett then commenced his argument in support of the motion, and in opening discussed the law of habeas corpus briefly. His proposition was that the courts of the United States had no common law jurisdiction in criminal matters—no common law offences existed within the jurisdiction of the United States courts. The court in which Judge Woodruff presided had jurisdiction only over offences created by statute of the United States, while the statutes which created them existed. No court in this or any other country ever had jurisdiction of an offence which had been blotted out of existence. Counsel held that Mr. Callicot was held in prison under a sentence for an act which was not an offence at the time it was charged in the indictment to have been committed. This sentence, he said, was for a violation of the forty-second section of the act of 1866, and the indictment itself showed precisely that it was fraud, the reports of the trial showed even in detail that it was for conspiring to execute and conniving at the execution of a certain bond known as the hand bond. And that bond, as set forth in the indictment, was a bond for the removal of distilled spirits without payment of the tax thereon. He wished to call the attention of the Court at this point to the terms of the forty-second section, by which it appeared that it was not enough that any bond, permit, entry or other document should be fraudulent to make a conspiracy to execute the same or to connive at the execution of the same an offence; but it must be a bond or other document required by law or regulations. Such a bond was at one time required by law for the removal of spirits from the bonded warehouse of the distillery—such as that of John Wilson, described in the indictment—but long before the trial and conviction of Callicot the only law which required such a bond had been repealed. The act repealing that law was approved January 11, 1868, and Mr. Callicot was not tried and convicted until the following June. (Counsel here read the act in question.) Now, he contended, it was perfectly clear that after the passage of that act no bond, permit, entry or other document, such as was required by law for the removal of distilled spirits, without payment of tax thereon, continued to be a bond, permit or other document required by law or by regulations. He submitted that this act of January 11, 1868, repealed both sections alike. The one provided that distilled spirits might be removed upon certain conditions without payment of the tax, and the other provided that no distilled spirits should be removed from a bonded warehouse without payment of the tax. They were absolutely inconsistent with each other, and the former was, therefore, repealed by the latter. Counsel said that this point was decided by Mr. Justice Nelson, when he argued it before him at Albany, at the time of the application for a writ of habeas corpus there.

Mr. Tracy asked if counsel relied upon that decision of Justice Nelson?

Mr. Bartlett—I do until it is overruled.

Mr. Tracy thereupon offered to put that proceeding into the case. The application which was made to Justice Nelson was denied. Mr. Tracy asked Mr. Bartlett if he made any objection to having that record put into the case.

Mr. Bartlett could not conceive of any objection, and he was not aware that Mr. Justice Nelson had been tabooed to any extent as an authority.

Mr. Tracy—I offer to put in that record as a part of my answer to this motion. Is there any objection?

Mr. Bartlett, after some further discussion, asserted that there was one alteration in the original manuscript; whereupon Mr. Tracy inquired if he proposed to make an affidavit to that effect?

Mr. Bartlett—I propose to take Justice Nelson's affidavit upon that point, if the gentleman wishes it.

Mr. Tracy—I trust that counsel does not mean to impute that I altered that opinion. (Sensation.)

Mr. Bartlett—Certainly not.

Mr. Tracy said that he was ashamed to say that he had never read the opinion.

Mr. Bartlett replied that, as he himself recollected, a period was changed to a comma, which might cause some change in the force of the opinion. He had told the Judge that he would call his attention to it whenever his Honor was on the bench here.

Mr. Tracy—It seems to me that these insinuations——

Mr. Bartlett, hastily interrupting, denied that any insinuations had been made.

Judge Woodruff then put an end to the discussion, which promised to be an exciting one, by remarking that if there was no objection the record would be entered.

Mr. Bartlett, continuing his argument, stated that it must be borne in mind that this section of the act of 1866, which Judge Nelson had said was repealed without a saving clause, was the only act under which a transportation bond like the hand bond was a bond required by law or regulations, and after the repeal of that act such a bond was no longer required by law, and the execution of such a bond, or procuring its execution even if fraudulent, was no longer an offence under the forty-second section. The repeal, he held, extinguished any prosecution for such an offence. Mr. Callicot was an officer appointed to act under a revenue law of the United States. He was described in every count of the indictment as Collector of Internal Revenue, and upon his trial the law of conspiracy under which he had been indicted, so far as revenue officers were concerned, had been repealed and changed by still another statute without any saving clause as to past offences. Only one count charged conspiracy to defraud, and the others were intended to charge conspiracy to commit an offence, and that offence, in fact, had been repealed. The peculiar offence created by the section of conspiracy to defraud was repealed without a saving clause, so far as concerned revenue officers, by the act of March 31, 1866, prior to the trial and conviction of Callicot. Judge Nelson decided that his argument was sound as to the effect of this repeal of the statute he first argued. Callicot was never tried on anything but this hand bond, which Judge Nelson's charge would show.

DISTRICT ATTORNEY TRACY'S ARGUMENT.

Mr. Tracy replied to Mr. Bartlett. He said that he had been listening to learn under what statute the counsel claimed the authority of the Court to issue a writ of habeas corpus for the discharge of a prisoner held in pursuance of a final judgment of a court of competent jurisdiction. There are four different statutes on the subject of habeas corpus—that of 1787, one of 1833, one in 1842, and one in 1867. It having been repeatedly held that a writ of habeas corpus would not issue for the discharge of a prisoner held under final judgment of a court of competent jurisdiction, and that being, as I understand it, the universal rule of the courts and the settled practice particularly in the United States courts, I had inferred that such authority for this new and novel position would be sought under the act of 1867, the last act on this subject. But inasmuch as the counsel has not referred the Court or myself to any act under which he claims this writ should issue, I suppose I shall be under the necessity of attempting to show that it does not exist under any of them. The act of 1867 does not enlarge the powers of the federal courts to issue a writ of habeas corpus in cases where a party is confined under the judgment of a federal court, or is held under and in pursuance of the authority of the federal courts at all. The act of 1867 was to extend the right of the writ to persons held under State authority. Under no previous statute has it ever been held that the writ of habeas corpus could issue for the discharge of persons held under final judgment. The contrary has been expressly held (ex parte Watkins 3, Peters 193). The judgment of a court of competent jurisdiction is never a nullity. If it had authority to hear and determine the question its decision is final and the end of the law in that subject. It determines that the cause of imprisonment is sufficient. If the Circuit Court of the United States had authority to try Mr. Callicot, and if it determined that he was liable to imprisonment for the violation of a statute of the United States, it is an end of the law and of all inquiry, and there is no authority in power anywhere or any tribunal to review that decision and bring it into question. It cannot be reviewed by a writ of habeas corpus; otherwise there is an end of the law. If you may review or seek to review the proceedings after sentence has been pronounced by a writ of habeas corpus district attorneys will have nothing else to do. Counsel has failed to cite any authority for this extraordinary proceeding. My next point is the fact of the pardon of Mr. Callicot. This application is addressed to the discretion of the Court: it is founded upon an affidavit made in May last, alleging that he was unlawfully restrained of his liberty. But before application is made for the writ the term of imprisonment for which he was sentenced expires, and he remains confined under that part of the sentence which orders him to stand committed until the fine of ten thousand dollars is paid. On proof made to the Executive of his inability to pay that fine the President remits the fine. The pardon has been received, and there is no evidence here that Callicot is restrained of his liberty. He is not restrained unless by his counsel. Counsel says the pardon does not take effect until it is accepted, as the conditions may be less preferable than the original punishment. But this pardon is not conditional, but absolute, and its effect is to throw open the doors of the Penitentiary and bid him walk forth if he will. What greater power or potency is there to your Honor's order of habeas corpus than there is to the President's pardon. The most of the counsel's argument was to show not his client's innocence, but that the statute under which he was convicted had been repealed, so far as he was concerned. My answer is this, that the forty-second section of this statute is not repealed by the act of July 11, 1868. The effect of the act of July 11, 1868, was to declare that certain things which had been permitted with reference to transporting spirits in bonds should no longer be permitted; but it did not repeal the act and declare that the statute of 1867 never existed, and that a violation of it could not be punished. The law is in full force, and it is enough to show that a bond executed under the provisions of that section is a false and fraudulent bond at the time it was made. The object and purpose of the act of 1868 was not the repeal of all prior laws existing on the subject. The bond under which he was indicted was made before the passage of the act; it was a bond required by law, and if not fraudulent, would have been legal and binding. It operated to defraud the government out of the tax. But Callicot was not indicted for anything but the crime of conspiracy with an overt act under the thirtieth section of the act of 1867, and not for executing a fraudulent bond. That statute is still in force. The overt act is an incident of the crime. He was indicted for a conspiracy to commit a fraud upon the United States, and was convicted under these counts as well as under the first count. It moreover does not appear that Callicot was subject to indictment under the act of March 31, 1868, for although he is described as a revenue officer for the mere purpose of describing his agency in the offence, yet it is nowhere charged that he was a revenue officer appointed and acting under the authority of the Revenue law.

Judge Woodruff took the papers and reserved his decision. Mr. Bartlett announced that Mr. Callicot had refused to accept his pardon.

BROOKLYN'S BOTHER.

Too Much Taxation—The Work of Retrenchment Going On.

The Brooklyn property owners are looking forward to the happy days when the rate of taxation upon their property will be lessened sufficiently to give them an opportunity of making a larger percentage upon their investments in real estate, and the work of retrenchment in several of the city departments is certainly sufficient to raise their expectations for a better state of affairs.

It is unnecessary to say that Brooklyn was gaining the reputation of being one of the

MOST TAX-RIDDEN CITIES

in the Union, and it became absolutely necessary for the authorities to take the matter in hand.

Brooklyn cannot be made a Garden of Eden in one year, and the Mayor, who keeps a pretty close watch on the expenditures, says they must "GO SLOW,"

for the city treasury is not an unfathomable mine, nor are the citizens all millionnaires.

The principal retrenchments have been made in the Water and Sewerage Board, who only recently discharged 200 of their employés. Yesterday they adopted the following resolutions:—

Resolved, That on and after the first day of January, 1871, the office of Hydrant Inspector in the Water Purveyor's Department be and the same is hereby abolished, and those persons now performing that duty be notified that their services will not be required after that date. Adopted.

Resolved, That application be made to the Legislature that the law governing this department shall be so amended as to abolish the office of Register of Water Rates, and that the collection of the water revenue of houses and vacant lots be hereafter collected in the office of the Collector of Taxes. Adopted.

Resolved, That the repairs of and charge of the water pipe in the piped district in the city be hereafter placed under the control of the engineer of the Board, and that the charge of the pipe laid, and all its materials laborers and employes, be turned over to said engineer, and that the said engineer be directed to report to this Board such laborers, employes and material as in his opinion are absolutely necessary to the economical administration of that branch of his department. Adopted.

Resolved, That the inspection of water connections, heretofore made by the Hydrant Inspector, shall on and after January 1, 1871, devolve upon and be made by inspectors of sewer connections, and the Permit Clerk is hereby directed to give notice daily of all water permits issued by him to said Sewer Inspectors, who shall on completion of the work report the same to the Permit Clerk for record. Adopted.

Whereas there are a large number of petitions before this Board for the repaving of streets at this time unacted upon, therefore

Resolved, That this Board hereby decide to take no further action in regard to repaving of streets, other than those already ordered, until such time as the weather next year will permit. Adopted.

THE "FROG" LITIGATION.

Reply of the Morris and Essex—The Erie Should Have Interfered Before—A Squatter Sovereignty Claim—Erie Jealous of a Powerful Rival.

After the opening of the court in Trenton yesterday morning Mr. Vanatta opened his argument on behalf of the Delaware and Lackawanna Railroad Company. He said that by virtue of an agreement between the Long Dock Company and the Morris and Essex, the latter

SHOULD HAVE A GREATER WIDTH

of way on either side of the tunnel, sufficient for two tracks. It should be borne in mind that the Long Dock Company could only grant the land, and their grant was limited to their territory. It would be seen that they granted the Hoboken Land Improvement Company a right of way for a double track; but inasmuch as the railway was intended to extend beyond the territory of the Long Dock Company the land was granted in order that connection might be made with the road on either side. The noticeable feature was that there was no limitation as to the number of roads they should connect with. There was no limit to it, unless their own discretion or interest. The tunnel was no more than

A FERRY ON LAND,

and the more people brought through it the better for the interest.

Some people have an idea that after they have borrowed money all they have to pay in return is "dead horse." They borrowed $116,000 from his clients, spent and forgot to pay it back again; and he could only say of the gigantic company he was opposing that their anticipations of the future were bright and their ignorings of the past great. Their hope was strong, their memory bad and their adherence to contracts worse.

His clients had the land by virtue of a deed with the Long Dock Company to the Morris and Essex Railroad Company, dated November 23, 1869, and by an agreement of 1859. They had it also in possession.

Jay Gould's affidavit is as silent as the grave as to the charge of fraud. They went to Mr. Gould and said they wanted to buy land to connect the Boonton branch with the main line. Mr. Gould sent an employé of the Erie to look at the land, and afterwards agreed to sell it at $3,000 per acre. It was known that Mr. Brisbane wanted to connect the roads there. What did they think Mr. Brisbane wanted of the land there? Did they think he would pay $3,000 per acre for

LAND TO RAISE SQUASH?

No! When Jay Gould took the money, if he knew the construction that would be put on the deed he must have known he was cheating them. The money went to the New York and Erie Railroad Company; they held it in their exchequer and now sought to restrain those who had paid the money from enjoying rights.

Take the cost of the tunnel at $1,000,000; the coal and passengers that passed through the tunnel by the lines the Erie opposed amounted by the tariff to $102,500—ten per cent on the original cost—and in the meantime the Erie had the tunnel free of cost. The tunnel would pay seven per cent, according to the agreement of the tariff, leaving three per cent for a sinking fund, which would in time clear off the debt; and it must be apparent that the tunnel was the finest piece of property on the Continent of America.

The Erie knew of it while the grading was going on; they had taken the money; they saw the expenditure of money; saw that the Morris and Essex Company believed they had the right. If a man builds a house on a piece of land to which he supposes he had a right and another witnesses the progress he is making and does not apprise him that he has no right to the land, but waits until the builder has moved his furniture and wife and children into the house before he goes to the Court to ask for an injunction, the Court will not grant it to him, because he did not speak when he had the right to do so. Just so is it with the Erie Railroad Company. They saw us at work; they saw us proceed in the belief we had the right, and when we were ready for business they came to court and asked to restrain us from being there at all. After

TWO MILLION DOLLARS HAD BEEN SPENT

the Erie was afraid the Morris and Essex was going to be a competing line to Paterson, and self-interest prompted the Erie to place all possible obstacles in the way.

Ex-Chancellor Williamson followed, but before he had concluded his argument the court adjourned till this morning.

THE SPECIAL CENSUS.

The Work Actually Begun—Swearing in Additional Deputies.

Yesterday the office of Marshal Sharpe was besieged by a large number of applicants for the position of special deputies to take the special enumeration of the city. About 109 were sworn in and received their instructions as to the manner of recording the names. One district—the Nineteenth, of the Eleventh ward—has already been completed, and the deputy, Richard Waldeck, finds the population to be 2844. There are still about forty deputies to be appointed, and the enumeration will be proceeded with at once.